

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **December 16, 2003**

AGENDA ITEM NO.: 10

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Petition to Rezone Wiggington Heights, Lots 39 and 40, at 813 Mercury Street.**

RECOMMENDATION: Approval of the requested rezoning.

SUMMARY: Gantt Investment Corporation has petitioned to rezone approximately 0.2 acre at 813 Mercury Street (Wiggington Heights, Lots 39 and 40), from R-2, Single Family Residential, to B-3C, Community Business District (Conditional), to allow for construction with the appropriate setbacks of an office complex with parking. While the office complex is permitted by right in the B-3 district, the setback requirements from the adjoining R-2 district (lots 39 to 42) restrict development on the B-3 parcel. The requested rezoning of lots 39 and 40 would allow for the development of the proposed office complex with the appropriate setbacks.

- Petition agrees with the *Comprehensive Plan* which encourages adequate buffers between uses.
- Petition agrees with the Zoning Ordinance in that rezoning the subject property will allow the provision of an adequate buffer to accommodate the use of an adjacent parcel for an office complex with parking, as well as a residential use on the subject property.

PRIOR ACTION(S):

November 12, 2003 Planning Division recommended approval of the rezoning.
 Planning Commission recommended approval (5-0, with two members absent)

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 455-3902
Tom Martin / 455-3909

ATTACHMENT(S):

- Resolution
- PC Report
- PC minutes
- Site plan

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA FROM R-2, SINGLE FAMILY RESIDENTIAL DISTRICT TO B-3C, COMMUNITY BUSINESS DISTRICT (CONDITIONAL).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG, That in order to promote the public necessity, convenience, general welfare and good zoning practice that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.____, which section shall read as follows:

Section 35.1-76.____. Change of a certain from R-2, Single Family Residential District to B-3C, Community Business District (Conditional).

The area embraced within the following boundaries:

All those certain lots or parcels of land situate on the southerly right-of-way line of Mercury Street approximately 250' west of its intersection with Burnham Lane in the City of Lynchburg, Virginia, commonly known as Lots 39 and 40, Wiggington Heights, and further described as follows:

Beginning at a point, which point is a common corner between Lots 38 and 39, Wiggington Heights located on the southerly right-of-way line of Mercury Street, approximately 250' west of its intersection with Burnham Lane, thence, with the common line of said Lots 38 and 39, S 30° 17' 00" W for a distance of 175.00 feet to a point, which point is a common corner between Lots 38, 39, 22 and 23, Wiggington Heights; thence, with the common line of Lots 22 and 21, Wiggington Heights, N 58° 43' 00" W for a distance of 50.00 feet to a point, which point is a common corner between Lots 40, 41, 21 and 20, Wiggington Heights; thence, with the common line of Lots 40 and 41, Wiggington Heights, N 30° 17' 00" E for a distance of 175.00 feet to a point, which point is a common corner between Lots 40 and 41, Wiggington Heights located on the southerly right-of-way line of said Mercury Street; thence, with said line of Mercury Street, S 58° 43' 00" E for a distance of 50.00 feet to the point of beginning; said property contains 0.201 acres more or less.

. . . are hereby changed from R-2, Single Family Residential District to B-3C Community Business District (Conditional), subject to the conditions setout herein below which were voluntarily proffered in writing by the owner, namely Joe Gantt and Benjamin L. Cowins, Jr., and Doris Cowins, to wit:

1. The site will be developed in substantial compliance with the approved site plan.
2. Only residential uses will be built on the site, as permitted by right in an R-2 zoning district.

And the Director of Community Planning and Development shall forthwith cause the "Official Zoning Map of Lynchburg, Virginia" referred to in Section 35.1-4 of this Chapter to be amended in accordance therewith.

Adopted:

Certified:

Clerk of Council

The Department of Community Planning & Development
City Hall, Lynchburg, VA 24504 434-847-1508

To: Planning Commission
From: Planning Division
Date: November 12, 2003
Re: **REZONING: R-2, Single Family Residential to B-3C, Community Business District (Conditional) at 813 Mercury Street.**

I. PETITIONER

Mr. Joe Gantt, Gantt Investment Corporation, P. O. Box 622, Forest, VA 24551
Representative: Mr. Joe Gantt

II. LOCATION

The subject property is a tract of about 0.2 acre located at 813 Mercury Street.
Property Owners: Joe Gantt and Benjamin L. and Doris Cowins, Jr., 808 Wiggington Road, Lynchburg, VA 24502

III. PURPOSE

The purpose of this petition is to allow a rezoning from R-2, Single Family Residential, to B-3C, Community Business District (Conditional), to allow for construction with the appropriate setbacks of an office complex with parking. While the office complex is permitted by right in the B-3 district, the setback requirements from the adjoining R-2 district (lots 39 to 42) restrict development on the B-3 parcel. The requested rezoning of lots 39 and 40 would allow for the development of the proposed office complex with appropriate setbacks.

IV. SUMMARY

- Petition agrees with the Comprehensive Plan which encourages adequate buffers between uses.
- Petition agrees with the Zoning Ordinance in that rezoning the subject property will allow the provision of an adequate buffer to accommodate the use of an adjacent parcel for an office complex with parking, as well as a residential use on the subject property.

The Planning Division recommends approval of the Rezoning petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends Low Density Residential uses for the subject property, as well as the surrounding property. However, the parcels adjacent to the subject parcel on the east and south sides are currently zoned B-3, and it is proposed to change the zoning of the subject parcel to allow construction of an office building on the parcel to the east that is already zoned B-3. Without the rezoning of the subject parcel, the adjacent parcel would not be large enough to permit the required 50-foot setback with enough space remaining to construct the office building. A residence is proposed to be constructed on lots 39 to 42. A vegetative buffer is proposed between the commercial use and the proposed residential use. With the development as proposed, the site layout provides productive use of the properties while maintaining a transition from commercial to residential use. The *Comprehensive Plan* does encourage the development and preservation of adequate buffers between different land uses.
2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-2, Low-Medium Density Single-Family Residential zoning was established in 1978 with the adoption of the current *Zoning Ordinance*. Commercial districts, such as B-3, Community Business, require a 50-foot buffer when they are adjacent to residential districts. In order for the existing B-3 parcel to be developed, it is proposed that lots 39 & 40 be rezoned to reduce the required setbacks.
3. **Proffers.** The petitioner voluntarily submitted the following proffer with the rezoning application:
 - The site will be developed in substantial compliance with the approved site plan.
 - Only residential uses will be built on the site, as permitted by right in an R-2 zoning district.

4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development as proposed.
 5. **Surrounding Area.** There have been two items requiring City Council approval in the immediate area:
March 9, 1999: Council approved a CUP for the construction of a veterinary hospital at 802-804 Wiggington Road.
February 11, 1997: Council approved a rezoning at 811 Wiggington Road from B-3 and I-3 to B-3 Conditional to allow the operation of a funeral home, crematorium, and parking.
 6. **Site Description.** The subject property is bounded to the east by vacant commercially zoned property that is now vacant, but on which the office complex with parking will be constructed. To the west and south, the property is residential. Mercury Street is to the north.
 7. **Proposed Use of Property.** The purpose of the rezoning is to allow construction of an office complex with parking on a parcel that is currently zoned B-3. However, the parcel is too small to accommodate both the proposed office use and the required 50-foot setback and buffer. A portion of the adjacent parcel zoned R-2 is proposed to be rezoned. This would allow the construction of the proposed office complex and allow for the construction of a residence on lots 39 -42.
 8. **Traffic and Parking.** The City Traffic Engineer had no comments of concern regarding the subject petition. The proposed use is not expected to generate a significant amount of traffic.
 9. **Storm Water Management.** Stormwater management will meet local and state regulations. Details will be addressed during preparation of the final site plan when complete data is available for design. Of potential concern to the City is the appearance of a detention pond; if a detention pond is selected as the stormwater management practice, the view of the pond from the street and adjacent uses will be screened with adequate vegetation as recommended by the City's Urban Forester.
 10. **Impact.** The visual impact of the proposed office complex and parking will be screened from the proposed adjacent residential uses by a vegetated buffer. The layout of the proposed development provides productive use of the properties while maintaining a transition from commercial to residential use. Other impacts on the surrounding neighborhood are expected to be minimal.

The property is located in the Scenic Corridor Overlay District (SCOD) and the petitioner will be required to comply with the additional requirements of this district regarding building materials and parking lot landscaping.
 11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on October 21, 2003. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.
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VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of Mr. Joe Gantt for a rezoning at 813 Mercury Street to allow construction of a 50-foot vegetated buffer and a residence.

This matter is respectfully offered for your consideration.

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. R. Douglas Dejarnette, Fire Marshal

Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Karl Cooler, Building Commissioner
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mr. Joe Gantt, Representative

VII. ATTACHMENTS

1. **Vicinity Zoning Pattern**
(see attached map)
2. **Vicinity Proposed Land Use**
(see attached map)
3. **Site Plan**
(see attached site plans)
4. **Narrative**
(see attached narrative)

Minutes from the November 12 Planning Commission meeting

These minutes have not been reviewed or approved by the Planning Commission

Petition of Gantt Investment Corporation to rezone approximately .2 acres at 813 Mercury Street from R-2, Single-Family Residential District to B-3, Community Business District (Conditional.)

Mr. Martin told the Commissioners that the rezoning as submitted would allow for the construction of an office complex on the adjacent parcel, which was currently zoned B-3. Without the rezoning, he said, the office complex could not be constructed due to setback issues. He added that the petitioner had voluntarily proffered that only single –family residential uses would be constructed on the B-3 portion. Mr. Martin said the Planning Division recommended approval of the rezoning request.

Mr. Joe Gantt, Gantt Investment Corporation explained his petition to the Commission. He said he was trying to create a second office building near his current office on a B-3 parcel. He said the City suggested that he rezone the site with conditions to meet the requirements. Mr. Gantt agreed that the lot would remain zoned R-2 and no commercial buildings would be built on that site. He said this request was just to make the project currently on B-3 work.

Commissioner Wilkins asked which lot would be rezoned.

Mr. Gantt explained that the driveway and parking lot adjacent to his existing building would continue through to Mercury Street.

Chair Dahlgren asked if this project would allow for an office complex and only one residence.

Mr. Gantt confirmed that that was his plan.

Commissioner Flint said this was an ingenious way to make a business use on one lot but maintain the residential portion also.

Chair Dahlgren added that this was a very nice plan.

After discussion Commissioner Worthington made the following motion, which was seconded by Commissioner Wilkins and passed by the following vote:

“That the Planning Commission recommends to the City Council approval of the petition of Mr. Joe Gantt for a rezoning at 813 Mercury Street to allow construction of a 50-foot vegetated buffer and a residence.”

AYES:	Dahlgren, Echols, Flint, Wilkins, Worthington	5
NOES:		0
ABSTENTIONS:		0

GANTT PROPERTIES REZONING

#013 Mercury Street
 Vol. Map # 222-02-004
 Rezoning from R-2 to B-3
 Petitioner: Joe Gantt/Gantt Properties

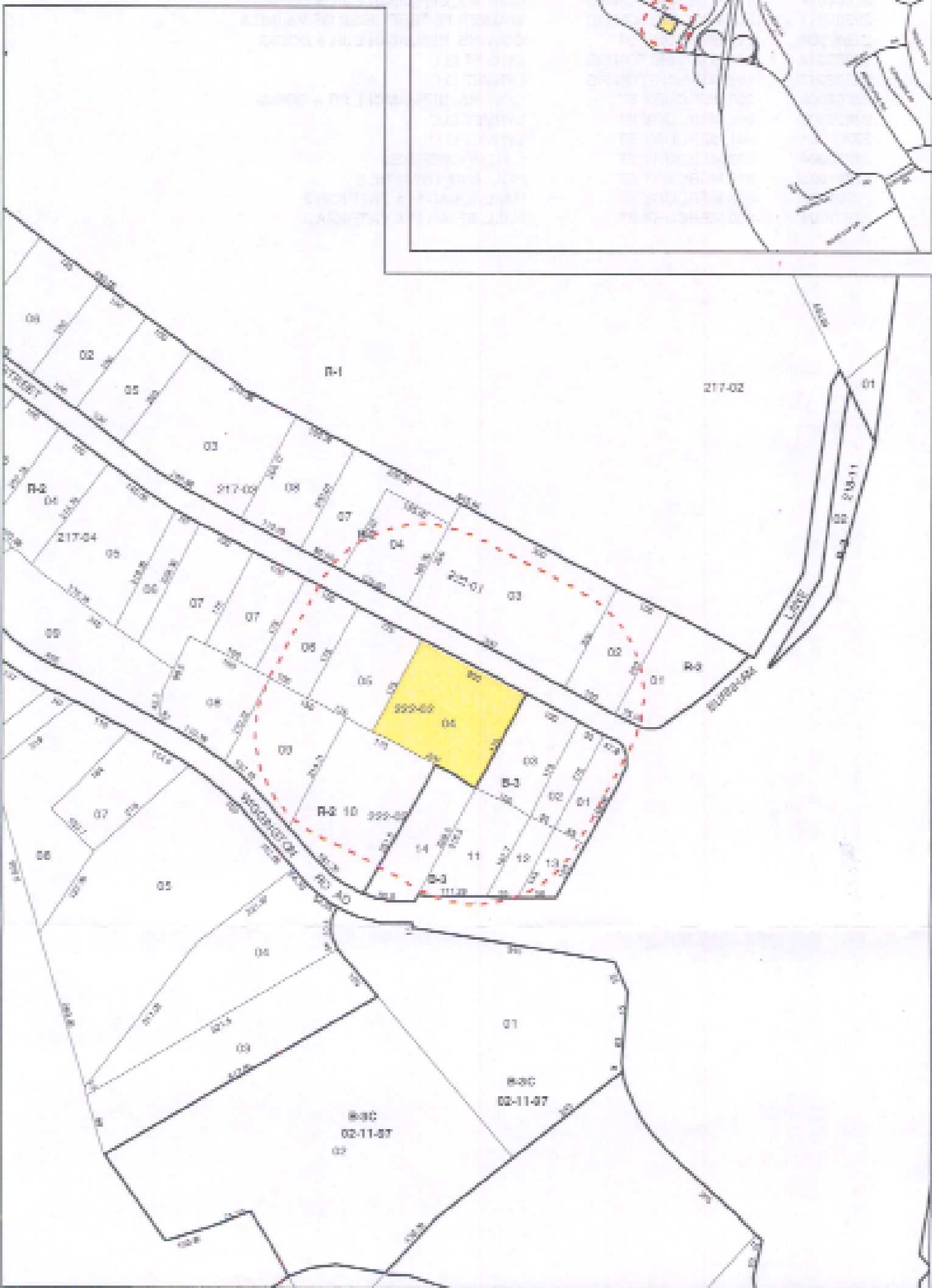
MAP PREPARED BY
 THE DEPARTMENT OF COMMUNITY PLANNING & DEVELOPMENT



Subject Property



200 ft Radius





SITE

- Public Parks
- Resource Conservation
- Public Use
- Institution
- Downtown
- Office
- Employment 1
- Employment 2
- Neighboring Commercial
- Community Commercial
- Regional Commercial
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Traditional Residential
- Locally Designated Historic District
- Mixed Use

GANTT PROPERTIES

813 MERCURY STREET

LAND USE PLAN

